

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

MATTHEW ROBERT YOUNG,

09-CV-1040-SU

Petitioner,

ORDER

v.

MARK NOOTH,

Respondent.

MATTHEW ROBERT YOUNG

6242666

SRCI

777 Stanton Blvd.

Ontario, OR 97914

Petitioner, *Pro Se*

JOHN KROGER

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KRISTEN E. BOYD

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BROWN, Judge.

Magistrate Judge Patricia Sullivan issued Findings and Recommendation (#27) on July 29, 2010, in which she recommends the Court grant Respondent's Motion (#24) to Dismiss Without Prejudice Petitioner's Amended Petition for Writ of Habeas Corpus, deny as moot Petitioner's Motion (#22) for Proper Case Characterization, dismiss this matter without prejudice, and deny any request for a certificate of appealability if Petitioner appeals the Court's Order. Respondent filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*).

In his Objections, Respondent reiterates the arguments he made to the Court in numerous filings in this matter. This Court has carefully considered Respondent's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the

Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Sullivan's Findings and Recommendation (#27) and, therefore, **GRANTS** Respondent's Motion (#24) to Dismiss Without Prejudice Petitioner's Amended Petition (#16) for Writ of Habeas Corpus, **DENIES as moot** Petitioner's Motion (#22) for Proper Case Characterization, and **DISMISSES** this matter **without prejudice**.

The Court hereby denies a certificate of appealability in connection with any appeal Petitioner may make from this Court's Order.

IT IS SO ORDERED.

DATED this 22nd day of October, 2010.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge